

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

**MAGISTRATE JUDGE'S  
FINDINGS AND RECOMMENDATION  
UPON A PLEA OF GUILTY**

Upon Defendant's request to enter a plea of guilty pursuant to Rule 11 of the Federal Rules of Criminal Procedure, this matter was referred to the Magistrate Judge by the District Court, with the written consents of the Defendant, counsel for the Defendant, and counsel for the United States.

Thereafter, the matter came on for a hearing on Defendant's plea of guilty to one-count Indictment which charges Title 8 USC Section 1326 enhanced by 8:1326(b)(1) Attempted Re-Entry After Deportation in full compliance with Rule 11, Federal Rules of Criminal Procedure, before the Magistrate Judge, in open court and on the record.

In consideration of that hearing and the allocution made by the Defendant under oath on the record and in the presence of counsel, and the remarks of the Assistant United States Attorney,

(A) I FIND as follows:

- (1) that Defendant is competent to plead;
- (2) that Defendant understands his/her right to trial;

(3) that Defendant understands what the minimum mandatory and maximum possible sentence is, including the effect of the supervised release term, and defendant understands that the sentencing guidelines apply and that the court may depart from those guidelines under some circumstances;

(4) that the plea of guilty by the Defendant has been knowingly and voluntarily made and is not the result of force or threats or of promises apart from the agreement between the parties;

(5) that Defendant understands the nature of the charge against him/her;

(6) that Defendant understands that his/her answers may later be used against him/her in a prosecution for perjury or false statement; and

(7) that there is a factual basis for the Defendant's plea;

(8) that Defendant has been advised of the consequences of having a prior felony conviction; and, does admit to having a prior felony conviction;

(9) that the defendant knowingly, intelligently and voluntarily

(9) that the defendant knowingly, intelligently and voluntarily waived his/her right to appeal or collaterally attack his/her conviction and any sentence imposed if it is within the range permitted by the plea agreement;

and further,

(B) I RECOMMEND that the District Court accept the Defendant's plea of guilty to one-count Indictment which charges Title 8 USC Section 1326 enhanced by 8:1326(b)(1) Attempted Re-Entry After Deportation.

(C) The parties have fourteen (14) days from the date of service of this Report and Recommendation to file written objections with the District Court.

DATED this 13<sup>th</sup> day of December, 2011.



D. Thomas Ferraro  
United States Magistrate Judge